

Honorable John C. Coughnour

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JAN 31 2003
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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CR 00-00482 #00000148

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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|---------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA, |) | No. CR00-0482 C |
| |) | |
| Plaintiff, |) | AFFIDAVIT OF STEVEN D. CLYMER |
| |) | IN SUPPORT OF GOVERNMENT'S |
| v. |) | RESPONSE TO KIM POWELL'S RULE |
| |) | 41(e) MOTION FOR RETURN OF |
| JAMES HOUSTON ANDERSON, |) | PROPERTY |
| KIM POWELL, et al., |) | |
| |) | Noted for: February 7, 2003 |
| Defendants |) | |
| |) | |

AFFIDAVIT OF STEVEN D. CLYMER

I, STEVEN D. CLYMER, hereby declare as follows.

1. I am a Special Assistant United States Attorney in the Northern District of New York. I presently am detailed to the Organized Crime and Racketeering Section of the Criminal Division of the United States Department of Justice ["DOJ"] and am

AFFIDAVIT IN SUPPORT OF
GOVERNMENT'S RESPONSE TO KIM
POWELL'S RULE 41(e) MOTION FOR
RETURN OF PROPERTY- 1

UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
ORGANIZED CRIME AND RACKETEERING SECTION
1110 THIRD AVENUE
SEATTLE, WASHINGTON 98101
(206) 262-2077

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1 assigned to assist federal and state law enforcement agencies in the Western
2 District of Washington in a criminal investigation involving the murder of
3 Assistant United States Attorney ["AUSA"] Thomas Crane Wales. Although I
4 had some minimal involvement in the investigation in April 2002, I did not
5 become fully involved until May 2002.
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8 2. I make this affidavit in support of the government's response to Kim Powell's
9 motion for return of property pursuant to Rule 41(e) of the Federal Rules of
10 Criminal Procedure.
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12 3 From my review of correspondence in the file, the documents seized from Powell
13 and Anderson, all of which have numbered stickers affixed to them, and a set of
14 compact disks with digital images of the seized documents in the case file, it
15 appears that during the pendency of the criminal case against Powell and
16 Anderson, the government produced to Powell and Anderson digital copies of all
17 of the documents that the Federal Aviation Administration ["FAA"] had seized
18 from them. Indeed, Larry Setchell, counsel for Anderson in that case, has told me
19 that he has compact disks with images of the seized documents. Powell likely
20 received such compact disks as well. If not, the government will make such
21 compact disks available to him on request.
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27 4. Shortly after I was assigned to the investigation of the Wales murder, I learned that
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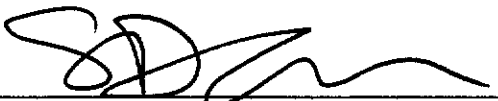
1 the FAA still had possession of property that it had seized from Powell and
2 Anderson in 1997. I also learned that attorneys representing Powell and Anderson
3 were making efforts to recover that property for their clients. In several telephone
4 conversations and a May 20, 2002 letter attached to the government's
5 memorandum of law as Exhibit J, I explained to the Powell and Anderson
6 attorneys that the government would not release any of the seized property until it
7 was able to determine if the property had any potential relevance to the murder
8 investigation. Those conversations included several that I had with attorney James
9 Vonasch, counsel for Powell. Because of the volume of the seized evidence, and in
10 order to expedite release of at least some of the property, I have suggested that
11 Powell identify those portions of the seized evidence that he would like to have
12 returned. Through counsel, defendant Powell rejected this suggestion and instead
13 demanded return of all of the property that the FAA seized from him.
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- 20 5. To the best of my knowledge, all of the exhibits attached to the government's
21 memorandum of law filed in support of its response are authentic photocopies of
22 documents from the government's files. Statements in the government's
23 memorandum of law concerning events in the government's investigation and
24 prosecution of Powell and Anderson in connection with Intrex and the helicopter
25 are based on my review of the case files.
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- 1 6. Statements in the government's memorandum of law concerning the Wales
2 murder and events in the government's investigation of the murder are based on
3 my review of Federal Bureau of Investigation ["FBI"] and police reports and
4 conversations with Special Agents of the FBI, police detectives, and DOJ officials.
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6 7. There presently is a grand jury investigation into the murder of AUSA Thomas
7 Wales.
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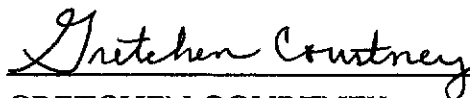
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11 I declare that the above is true and correct to the best of my knowledge

12 Executed this 30th day of January, 2003, in Ithaca, New York.
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15 

16 STEVEN D. CLYMER
17 Special Assistant United States Attorney

18 SUBSCRIBED and SWORN to before me this 31st day of January, 2003 in Seattle,
19 Washington.

20
21 

22 GRETCHEN COURTNEY
23 Notary Public in and for the State of Washington
24 My Commission Expires: 4/8/03
25
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(SEAL)

AFFIDAVIT IN SUPPORT OF
GOVERNMENT'S RESPONSE TO KIM
POWELL'S RULE 41(e) MOTION FOR
RETURN OF PROPERTY- 4

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Government's Response to Kim Powell's Rule 41(e) Motion for Return of Property, Memorandum in Support of Kim Powell's Rule 41(e) Motion for Return of Property and Affidavit of Steven D. Clymer in Support of Government's Response to Kim Powell's Rule 41(e) Motion for Return of Property were served upon:

James Vonasch
526 1st Avenue S., Apt. 321
Seattle, Washington 98101

Peter Mueller, AUSA
United States Attorney's Office
601 Union Street, Suite 5100
Seattle, Washington 98101

DATED this 31st day of January, 2003.


GRETCHEN COURTNEY
Paralegal Specialist